

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GARY L. OWEN, SARAH BARBER,
and GEORGE W. PALMER

Appeal No. 2002-0553
Application No. 09/391,782

ON BRIEF

MAILED

JUL 24 2003

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before COHEN, FRANKFORT, and FLEMING, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 2 through 6, 8, and 13 through 18. These claims constitute all of the claims remaining in the application.

Appellants' invention pertains to an avionics FMS, an avionics display, and a method of adjusting a display of FMS information to a pilot. A basic understanding of the invention can be derived from a reading of exemplary claims 2, 14, and 18,

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copies of which appears in the APPENDIX to the brief (Paper No. 10).

As evidence of anticipation, the examiner has applied the document specified below:

Briffe et al	6,038,498	Mar. 14, 2000
(Briffe)		(filed Oct. 15, 1997)

The following rejection is before us for review.

Claims 2 through 6, 8, and 13 through 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Briffe.

The full text of the examiner's rejection and response to the argument presented by appellants appears in the answer (Paper No. 11), while the complete statement of appellants' argument can be found in the brief (Paper No. 10).

In the brief, appellants group the claims on appeal as follows:

Group 1----claims 2 through 6, 8, and 13 which do not stand together;

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Group 2----claims 14 through 17 which do not stand or fall together; and

Group 3----claim 18.

OPINION

In reaching our conclusion on the anticipation issue raised in this appeal, this panel of the board has carefully considered appellants' specification and claims,¹ the applied Briffe patent, the affidavit of Gary L. Owen (Paper No. 8), and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determinations which appear below.

At the outset, we note that anticipation under 35 U.S.C. § 102(e) is established only when a single prior art reference discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673

¹ In light of appellants' underlying disclosure, we comprehend the term "FMS" in claims 2 and 18 to be the abbreviation for "flight management system."

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(Fed. Cir. 1994); In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990); and RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). However, the law of anticipation does not require that the reference teach specifically what an appellant has disclosed and is claiming but only that the claims on appeal "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

At this point, we recognize from a reading of the "BACKGROUND OF THE INVENTION" section of the present specification (page 3) that, prior to appellants' invention, it was known to display an FMS textual information segment on a multi-functional display also containing a map display. This prior art is further described in the specification (page 7) and depicted in the drawings (Fig. 1).

Prior to addressing the rejection on appeal, it is important to consider the meaning of the recitations "route window" (independent claim 2) and "window of route information"

(independent claim 14). In the specification (page 4), we are informed that a feature of the present invention is to utilize "a route window which simultaneously displays all textual information relating to a flight plan leg that is displayed on a graphical FMS map display." The route window can be a box of a display as in Figs. 2 through 5 or the entire display as in Fig. 6 (specification, page 6). The route window can contain more, less, and varied textual FMS data, as perceived from the specification (page 10). Based upon appellants' disclosure, it is our opinion that one skilled in the art would broadly understand the respective terms "route window" and "window of route information" to each denote a window display of FMS textual information.²

This panel of the Board shares the examiner's view that independent claim 2 is anticipated by Briffe. We view the Multi-

² Affiant Owen indicates (page 2) that a route window "connotes a textual only window of route related information where the information therein is much more extensive than a mere waypoint list." On the other hand, the affidavit also asserts (page 2) that persons having ordinary skill in the art would understand the term route window "to convey a textual only window showing textual information relating to a route." With due regard to the above, our broadest reasonable definition of "route window", supra, is nevertheless sound since it is appropriately based upon appellants' own disclosure.

Function Display (MFD) shown in Fig. 16 of the reference, for example, as being responsive to the content of claim 2. The display of Fig. 16 includes a list of waypoints³ 550 (configurable route window) and enroute high-altitude chart 545 (an adaptive graphical map segment).⁴

The argument in the brief fails to convince us that claim 2 is not anticipated by Briffe. In particular, we do not share appellants' analysis of the Briffe patent (brief, pages 4 and 5) and conclusion that all windows have a fixed size of 1/6. In support of our view, and consistent with the Briffe teaching at column 11, lines 1 through 37, we note that the reference also indicates that, for example, 1/4 screen formats can be automatically compressed or reduced to 1/6 screen (column 16, lines 2 through 5 and column 18, lines 1 through 7). All in all, it is clear to us that Briffe would be understood by one skilled in the art as teaching a size configurable route window.

³ A flight management system (FMS), as explained in Briffe (column 1), includes a database of prestored navigation landmarks known as waypoints. Thus, waypoints are FMS route data, as set forth in claim 2.

⁴ The showing in Fig. 22 of Briffe, similar to Fig. 16, also reveals a listing of waypoints 574 (route window) adjacent a enroute high altitude chart 572.

Further, and notwithstanding appellants' (brief, page 5) and affiant's (affidavit, pages 2 and 3) respective viewpoints to the contrary, we explained above that the broadly set forth route window of claim 2, as earlier defined, is responded to by the list of waypoints of Briffe. More particularly, appellants (brief, page 5) and affiant (affidavit, page 2) point out that the graphical map (545) of Fig. 16, for example, is not a route window. We agree. However, Fig. 16, as earlier noted, also includes a listing of waypoints (WPT LIST) 550. Clearly, that listing is responsive to the broadly claimed route window, and is distinct from a map display contrary to appellants' viewpoint (brief, page 6).

We also sustain the rejection of claim 3 since the WPT LIST of Fig. 16 of Briffe includes a control button. Further, we sustain the rejection of claim 8,⁵ particularly since appellants have not presented any argument relative thereto. However, we do not sustain the rejection of claims 4, 5, 6, and 13 for the

⁵ Claim 8 improperly depends from canceled claim 7. This matter should be addressed by the examiner during any further prosecution in this application.

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reason that the reference is not seen to include the particular window buttons set forth therein.

This panel of the Board also sustains the rejection of claims 14 through 17 based upon our above findings relative to Briffe. Thus, appellants' argument (brief, page 7) that the Briffe patent fails to teach both elements, i.e., a size configurable window and a map, fails to convince us that the rejection is not sound.

We additionally sustain the rejection of claim 18. Contrary to the view of appellants (brief, page 7), the WPT LIST of Fig. 16 of Briffe includes a control button that adjusts a size characteristic of the list.

In summary, this panel of the board has sustained the rejection of claims 2, 3, 8, and 14 through 18, but has not sustained the rejection of claims 4, 5, 6, and 13.


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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

IRWIN CHARLES COHEN
Administrative Patent Judge

Charles E. Frankfort
CHARLES E. FRANKFORT
Administrative Patent Judge


MICHAEL R. FLEMING
Administrative Patent Judge

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